TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

(Authority: A.R.S. § 32-3001 et seq.)

Former Article 1 consisting of Sections R4-39-101 through R4-39-111, former Article 2 consisting of Section R4-39-201, former Article 3 consisting of Sections R4-39-301 through R4-39-310, former Article 4 consisting of Sections R4-39-401 through R4-39-403, and former Article 5 consisting of Sections R4-39-501 and R4-39-502 adopted as an emergency effective January 2, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.

ARTICLE 1. DEFINITIONS, LICENSURE, REPORTING

Section	
R4-39-101.	Definitions
R4-39-102.	Licensure and Licensure Procedures
R4-39-103.	Requirements for Regular Licensure to Operate a
	Private, Accredited, Vocational or Degree-Granting
	Institution in Arizona
R4-39-104.	Requirements for Conditional Licensure to Operate
	a New, Private, Non-Accredited Vocational Institu-
	tion in Arizona
R4-39-105.	Requirements for Regular Licensure to Continue to
	Operate an Existing, Private, Non-Accredited, Voca-
	tional Institution in Arizona
R4-39-106.	Requirements for Conditional Licensure to Operate
	a New, Private, Non-Accredited, Degree-Granting
	Institution in Arizona
R4-39-107.	Requirements for Provisional Licensure to Operate
	an Existing, Private, Non-Accredited, Degree-
	Granting Institution in Arizona
R4-39-108.	License Renewals
R4-39-109.	Supplemental License Applications
R4-39-110.	Change of Ownership
R4-39-111.	Honorary Degrees
R4-39-112.	Repealed

ARTICLE 2. FEES

Section

Saction

R4-39-201. Fees

ARTICLE 3. OPERATION OF NON-ACCREDITED INSTITUTIONS

Section			
R4-39-301.	Catalog		
R4-39-302.	Facilities and Equipment		
R4-39-303.	Control and Personnel		
R4-39-304.	Advertising		
R4-39-305.	Recruitment		
R4-39-306.	Admission Requirements		
R4-39-307.	Placement		
R4-39-308.	Pricing and Refund Policy		
R4-39-309.	Renumbered		
R4-39-310.	Repealed		
ARTICLE 4. OPERATION OF A			

ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS

Section	
R4-39-401.	Student Records
R4-39-402.	Preservation of Records
R4-39-403.	Student Complaint Procedures

ARTICLE 5. INVESTIGATIONS AND HEARING PROCEDURES

Section	
R4-39-501.	Investigations
R4-39-502.	Hearings

R4-39-503. Rehearing or Review of Board's Decision

ARTICLE 6. STUDENT TUITION RECOVERY FUND

Section	
R4-39-601.	Submission of Assessmen
R4-39-602.	Claims
R4-39-603.	Student Records

ARTICLE 1. DEFINITIONS, LICENSURE AND REPORTING

R4-39-101. Definitions

In this Chapter, unless the context otherwise requires:

- A "conditional license" means a license issued for one year only to:
 - A new non-accredited vocational institution or program.
 - b. A new non-accredited degree granting institution pursuant to the provisions of R4-39-106.
- 2. A "new" institution means one that has not previously operated in Arizona. However, if an applicant for an original license to grant degrees has not granted degrees and has only operated as a licensed vocational institution in Arizona, it shall be regarded as a new institution for purposes of obtaining a license to grant degrees.
- 3. A "provisional" license to grant degrees may be issued to a non-accredited degree granting institution upon expiration of the conditional license to grant degrees and upon compliance with the provisions of R4-39-107.
- 4. "Regular" license means:
 - a. The license which may be granted to a non-accredited vocational institution or program upon expiration of the conditional license to operate a vocational institution or program.
 - b. The license which may be granted to an accredited vocational or degree granting institution.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3).

R4-39-102. Licensure and Licensure Procedures

- A. The Board may issue a conditional, regular, or supplemental license to a private institution to operate vocational programs.
- B. The Board may issue a conditional, provisional, regular, or supplemental license to a private institution to operate degree programs or grant degrees.
- C. Licenses are effective for a 12-month period from the date of issuance.
- D. The Board shall issue the following licenses to private, vocational institutions:
 - An original license of an accredited, private, vocational institution is a regular license to operate vocational programs.
 - A license renewal of an accredited, private, vocational institution is a regular license to continue to operate vocational programs.
 - An original license of a new, non-accredited, private, vocational institution is a one-year conditional license to operate vocational programs.

- A license renewal of a non-accredited, private, vocational institution is a regular license to continue to operate vocational programs.
- E. The Board shall issue the following licenses to private, degree-granting institutions:
 - An original license of an accredited, private, degreegranting institution is a regular license to operate degree programs or grant degrees.
 - A license renewal of an accredited, private, degree-granting institution is a regular license to continue to operate degree programs or grant degrees.
 - An original license of a new, non-accredited, private, degree-granting institution that complies with the provisions of R4-39-106 is a conditional license to operate degree programs or grant degrees.
 - A license renewal of a non-accredited, private, degreegranting institution that complies with the provisions of R4-39-107 is a provisional license to continue to operate degree programs or grant degrees.
- **F.** For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames:
 - For an original conditional or original regular license application to operate vocational programs or an original regular license application to operate degree programs or grant degrees:
 - Administrative completeness review time-frame: 90 days;
 - b. Substantive review time-frame: 90 days;
 - c. Overall time-frame: 180 days.
 - For a conditional or provisional license application to operate degree programs or grant degrees:
 - Administrative completeness review time-frame: 90 days;
 - b. Substantive review time-frame: 150 days;
 - c. Overall time-frame: 240 days.
 - For a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application:
 - Administrative completeness review time-frame: 45 days;
 - b. Substantive review time-frame: 90 days;
 - c. Overall time-frame: 135 days.
- G. Within 90 days of receiving an original conditional or original regular license application to operate vocational programs or an original regular, original conditional, or provisional license application to operate degree programs or grant degrees, or within 45 days of receiving a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application, the Board shall finish an administrative completeness review.
 - If the application is complete, the Board shall notify the applicant that the application is complete and that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
 - 2. If the application is incomplete, the Board shall notify the applicant that the application is incomplete and specify what information is missing and what deficiencies are found in the application. The administrative completeness review time-frame is suspended from the date the notice is served until the applicant provides the Board with a revised application containing all missing information and correcting all deficiencies.
 - An applicant with an incomplete application shall submit a revised application within 60 days of receipt of notice.

- b. If the applicant cannot submit a revised application within 60 days of receipt of notice, the applicant may request an extension of no more than 30 days by submitting a written request, documenting the reasons the applicant is unable to meet the 60-day deadline, to the Board postmarked or delivered with 60 days of receipt of notice.
- c. The Board shall grant the request for an extension of the 60-day deadline if the Board determines that the extension of the 60-day deadline will enable the applicant to submit a revised application containing all missing information and correcting all deficiencies.
- d. Upon receipt and review of the revised application, and within the administrative completeness review time-frame, the Board shall notify the applicant that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
- e. If the revised application containing all missing information and correcting all deficiencies is not submitted within the 60-day deadline or the time permitted by an extension, the Board shall close the application. An applicant whose application is closed and who later wishes to seek licensure, shall apply anew.
- H. Within 90 days from the date on which the administrative completeness review of an original conditional or original regular license application to operate vocational programs, an original regular license application to operate degree programs or grant degrees, a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application is finished or within 150 days from the date on which the administrative completeness review of an original conditional or provisional license application to operate degree programs or grant degrees is finished, the Board shall complete a substantive review of the application, which may include an onsite verification, and render a decision.
 - If the Board finds that the applicant meets all requirements defined in statute and rule, the Board shall grant the license.
 - If the Board finds that the applicant fails to meet all requirements defined in statute and rule, the Board shall deny the license.
 - 3. If the Board finds deficiencies during the substantive review of the application, the Board shall issue a written request, specifying the additional documentation to be submitted and deadline for submission. The time-frame for substantive review of an application is suspended from the date the written request for additional documentation is served until the date that all documentation is received.
 - 4. When the applicant and the Board mutually agree in writing, the Board shall grant extensions of the substantive review time-frame totalling no more than 30 days.
 - If the requested documentation is not submitted by the deadline date, the Board shall close the application. An applicant whose application has been closed and who later wishes to seek licensure, shall apply anew.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective November 14, 1997 (Supp. 97-4).

R4-39-103. Requirements for Regular Licensure to Operate a Private, Accredited, Vocational or Degree-Granting Institution in Arizona

- A. A private, vocational, or degree-granting institution that is institutionally accredited or has each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a regular license before operating in Arizona.
- **B.** To be regularly licensed to operate, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall submit the following to the Board for verification, review, and administrative action:
 - 1. A completed, verified license application;
 - A letter from each recognized accrediting agency by whom the institution or its programs are accredited that confirms the current accredited status of the institution or its programs and is certified as true and correct by an authorized administrative official of the institution;
 - A copy of the institution's current catalog, required by the institution's accrediting agency, certified as true and correct by an authorized administrative official of the institution:
 - A copy of the institution's student enrollment agreement or equivalent documentation, required by the institution's accrediting agency; and
 - 5. Documents specified in R4-39-104(B)(5) through (B)(15).
- C. To continue to be regularly licensed, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall annually submit to the Board for verification, review and administrative action documents specified in subsections (B)(1) through (B)(3) and in R4-39-104(B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).
- D. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall discipline an accredited, vocational, or degree-granting institution that is regularly licensed if the institution:
 - Fails to comply with applicable accreditation standards or applicable federal standards as determined by the Board;
 - 2. Loses its institutional or program accreditation;
 - Fails to notify the Board in writing within 20 days of any change in any certificate of accreditation; or
 - Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

R4-39-104. Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited, Vocational Institution in Arizona

- A. A new, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating vocational programs in Arizona.
- B. To be conditionally licensed to operate vocational programs a new, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall sub-

mit the following to the Board for verification, review, and administrative action:

- 1. A completed, verified license application;
- A surety bond in the amount of \$15,000 on a form approved by the Board. A cash deposit in the amount of \$15,000 may be submitted instead of a surety bond. A receipt for the cash deposit from the state treasurer shall suffice as evidence of the deposit;
- 3. A copy of the institution's current catalog, required by R4-39-301, certified as true and correct by an authorized administrative official of the institution;
- 4. A copy of the institution's student enrollment agreement specified in R4-39-310(A)(1);
- 5. Proof of insurance, sufficient to protect the assets of the institution in the event of damage or a finding of liability;
- 6. Current annual financial statements, compiled or reviewed in accordance with standards established by the American Institute of Certified Public Accountants or audited in accordance with generally accepted auditing standards and prepared in accordance with generally accepted accounting principles. The financial statements shall include a balance sheet, statement of operations, statement of changes in financial position and appropriate footnotes with an accountant's report, prepared and signed by an independent certified or public accountant currently licensed by the Arizona State Board of Accountancy or, if applicable, the accountancy Board located in the state of the institution's corporate or home office. Additional financial information may be required by the Board;
- Course of study information on each program offered by the institution, including information on graduate employment opportunities and practitioner requirements;
- 8. A copy of each certificate or diploma awarded by the institution:
- A copy of the institution's published student grievance procedure that provides details regarding the institutional complaint process and references the student's right to file a complaint with the Board;
- A sample copy of every document and media presentation that is or is intended to be advertised or presented to potential students;
- 11. A resume for each faculty member, director, and owner;
- 12. Line drawings or photographs that describe in detail the facilities, and a list of equipment and materials of the institution;
- 13. A copy of the most recent fire department inspection report;
- An agent license application for each person soliciting students, if applicable; and
- 15. Other information deemed necessary by the Board.
- C. Before issuing a conditional license to operate vocational programs to a new, private, non-accredited, vocational institution, Board staff or a Board-appointed, onsite verification team shall visit the institution and confer with the administrative officers, faculty, students, if applicable, and other individuals, and make examinations that are necessary to obtain an accurate reflection of the institution's financial responsibility, management capabilities, programs, facilities, and equipment. After the visit, Board staff or the onsite verification team shall prepare and submit to the Board a written report of its findings. The Board shall review and use the written report in determining whether to grant a conditional license to the institution.
- **D.** During its one year of conditional licensure, a new, private, non-accredited, vocational institution shall not use terms such

- as "licensed", "approved" or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time period, it shall use the term "conditional license."
- E. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against a new, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

R4-39-105. Requirements for Regular Licensure to Continue to Operate an Existing, Private, Non-Accredited, Vocational Institution in Arizona

- A. Upon expiration of a conditional license obtained in compliance with R4-39-104, an existing, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a regular license to continue to operate non-accredited vocational programs in Arizona.
- B. To be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
 - 1. A completed, verified license application;
 - A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and
 - 3. Documents specified in R4-39-104(B)(3), (B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).
- C. Before issuing a regular license to an existing, private, non-accredited, vocational institution, the Board shall conduct an onsite verification as described in R4-39-104(C).
- D. To continue to be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsections (B)(1) through (B)(3).
- E. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

R4-39-106. Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited, Degree-Granting Institution in Arizona

- A. A new, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating degree programs or granting degrees in Arizona.
- B. To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall demonstrate its intent and ability to make reasonable and timely progress toward obtaining accreditation

- from an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and successful pursuit of the various stages of accreditation within the time periods established, by the accrediting agency and as determined by the Board.
- C. To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
 - 1. A completed, verified license application;
 - 2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:
 - a. A copy of the written commitment to apply for accreditation that the institution has submitted to each recognized accrediting agency to which the institution plans to apply for accreditation, certified as true and correct by an authorized administrative official of the institution; and
 - An explanation to the accreditation process and the timeline required to make reasonable and timely progress toward obtaining accreditation, for each recognized accrediting agency to which the institution plans to apply for accreditation; and
 - 3. Documents specified in R4-39-104(B)(2) through (B)(15).
- **D.** Before issuing a conditional license to operate degree programs or grant degrees to a new, private, non-accredited, degree-granting institution, the Board shall conduct an onsite verification as described in R4-39-104(C).
- E. During its one-year of conditional licensure to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall not use terms such as "licensed", "approved", or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time, it shall use the term "conditional license".
- F. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against a new, private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4).

R4-39-107. Requirements for Provisional Licensure to Operate an Existing, Private, Non-Accredited, Degree-Granting Institution in Arizona

- A. Upon expiration of a conditional license obtained in compliance with R4-39-106, an existing, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a provisional license to continue to operate degree programs or grant degrees in Arizona.
- B. To be provisionally licensed to operate degree programs or grant degrees, an existing, private, non-accredited, degree-granting institution shall demonstrate reasonable and timely progress toward obtaining accreditation with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and

- successful pursuit of the various stages of accreditation within the time periods established by the accrediting agency and as determined by the Board.
- C. To be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
 - 1. A completed, verified license application;
 - 2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:
 - a. Proof that the institution has applied for accreditation with one or more recognized accrediting agencies;
 - A report on the current status of the institution's progress toward accreditation, certified as true and correct by an authorized administrative official of the institution; and
 - A letter from each recognized accrediting agency to which the institution has applied confirming the current status of the institution's progress toward accreditation;
 - A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and
 - Documents specified in R4-39-104(B)(3) through (B)(6), (B)(9) through (B)(11), and (B)(15).
- D. To continue to be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsections (C)(1), (C)(2)(b), (C)(2)(c), (C)(3), and (C)(4). The Board shall deny provisional licensure to an existing private, non-accredited, degree-granting institution that is not proceeding through the accreditation process in a reasonable and timely manner as determined by the Board.
- E. Before issuing a provisional license to an existing, private, non-accredited, degree-granting institution, the Board shall conduct an onsite verification as described in R4-39-104(C).
- F. During the period of provisional licensure, an existing, private, non-accredited, degree-granting institution shall not use terms such as "licensed", "approved", or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure, it shall use the term "provisional license".
- G. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Amended effective October 10, 1997 (Supp. 97-4).

R4-39-108. License Renewals

- A. A private vocational or degree-granting institution shall submit a complete, verified license renewal application to the Board no later than 45 days prior to the expiration of the license. The license renewal application shall include the following:
 - 1. An accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
 - 2. An accredited private degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B) and

- annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
- A non-accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-105(D), or
- An existing non-accredited private degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review and administrative action, documents specified in R4-39-107(D).
- Failure to submit the annual license renewal application and required documents may result in disciplinary action. If Board staff determines there is cause to bring the question of license renewal to the Board, Board staff shall set the matter on the Board agenda for a public meeting. The Board may require, as a condition of license renewal, submission of additional reports or other relevant information and the personal appearance of representatives of the institution before the Board.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective November 6, 1998 (Supp. 98-4).

R4-39-109. Supplemental License Applications

- **A.** A private vocational or degree-granting institution shall submit to the Board an application for a supplemental license for approval of any additional vocational program, degree program, change of location or change of name of the institution at least 45 days before:
 - Operating an unlicensed, new, or additional vocational or degree-granting program; or
 - Operating from an unlicensed, new or additional location;
 - 3. Changing the name of the licensed institution.
- **B.** The Board shall grant a supplemental license to a private vocational or degree-granting institution if the institution demonstrates that a supplemental license application submitted under subsection (A) is in compliance with A.R.S. §§ 32-3021 through 32-3051.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Section R4-39-109 repealed; new Section R4-39-109 renumbered from R4-39-110 and amended effective November 6, 1998 (Supp. 98-4).

R4-39-110. Change of Ownership

- A. No later than 60 days after a change of ownership, a private vocational or degree-granting institution shall submit an application for a supplemental license.
- B. For an accredited private vocational or an accredited private degree-granting institution, an application for a supplemental license for a change of ownership shall include the following:
 - 1. A complete, verified application for a supplemental license; and
 - 2. Documents specified in R4-39-103(B)(2), (3), and (4) and R4-39-104(B)(5), (6), (9), (11), and (15).
- C. For a non-accredited private vocational institution, an application for a supplemental license for a change of ownership shall include the following:
 - A complete, verified application for a supplemental license; and
 - 2. Documents specified in R4-39-105(B)(2) and (3).

- D. For a non-accredited private degree-granting institution, an application for a supplemental license for a change of ownership shall include:
 - A complete, verified application for a supplemental license; and
 - 2. Documents specified in R4-39-107(C)(2) through (C)(4).
- E. The Board shall grant a supplemental license for a change of ownership to a private vocational institution or a private degree-granting institution if the private vocational institution or the private degree-granting institution demonstrates that the application for a supplemental license for a change of ownership submitted under subsection (B), (C), or (D) is in compliance with A.R.S. §§ 32-3021 through 32-3051.
- F. Ownership of an institution shall be considered changed if
 - In the case of ownership by a sole proprietor, more than a 20% interest or a beneficial interest in an institution is sold or transferred;
 - In the case of ownership by a partnership or a corporation, more than 20% of the stock, interest, or beneficial interest is sold or transferred; or
 - If the Board of Directors, officers, shareholders or controlling influence changes to such an extent as to significantly alter the management and control of the institution.
- **G.** A private vocational or degree-granting institution shall file a written notice of a change of ownership with the Board no later than seven days after the change in ownership.
- H. Notwithstanding subsection (F), a private vocational institution or a private degree-granting institution shall notify the Board of any transfer of an ownership or beneficial interest of more than 10% but less than 20% in a private vocational or degree-granting institution within seven days. The notice shall include a resume of each new owner or beneficial interest holder.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). R4-39-110 renumbered to R4-39-109; new Section R4-39-110 renumbered from R4-39-111 and amended (Supp. 98-4).

R4-39-111. Honorary Degrees

- A. Only currently licensed, accredited private degree-granting institutions may apply to award honorary degrees. A currently licensed, accredited private degree-granting institution shall submit an application for a supplemental license for an honorary degree to the Board for verification, review, and administrative action before offering to grant or granting an honorary degree.
- B. The Board shall approve the application for a supplemental license application for an honorary degree if the honorary degree is consistent with the institution's currently licensed degree-granting programs.
- C. An honorary degree shall identify in its title or name that it is an honorary degree and shall bear on its face the denotation that it is an honorary degree.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). R4-39-111 renumbered to R4-39-110; new Section R4-39-111 renumbered from R4-39-112 and amended effective November 6, 1998 (Supp. 98-4).

R4-39-112. Repealed

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Repealed effective November 6, 1998 (Supp. 98-4).

ARTICLE 2. FEES

R4-39-201. Fees

- **A.** The filing fee for an original license to operate private vocational or degree-granting programs is \$800.
- **B.** The annual filing fee for a license renewal to continue to operate private vocational or degree-granting programs is the following amount based upon annual gross tuition revenues:
 - 1. Less than \$50,000 annual gross tuition revenue, \$600.
 - 2. \$50,000/\$249,999 annual gross tuition revenue, \$750.
 - 3. \$250,000/499,999 annual gross tuition revenue, \$1,000.
 - 4. \$500,000/\$999,999 annual gross tuition revenue, \$1,300.
 - 5. \$1,000,000/\$2,499,999 annual gross tuition revenue, \$1,650.
 - 6. \$2,500,000/\$6,999,999 annual gross tuition revenue, \$2,000.
 - 7. \$7,000,000 or more annual gross tuition revenue, \$2,300.
- C. The filing fee for each application for a supplemental license to operate new or additional private vocational or degree granting programs is \$500.
- **D.** The filing fee for each application for a supplemental license to operate private vocational or degree-granting programs from a new location or an additional location is \$500.
- E. The filing fee for an application for a supplemental license to continue to operate private vocational or degree-granting programs upon a change of ownership is \$500.
- **F.** The fee for an onsite verification, inspection, or investigation is the actual cost incurred or \$500, whichever is less.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Section R4-39-201 repealed, new Section R4-39-201 adopted effective May 19, 1988 (Supp. 88-2). Emergency amendments adopted effective January 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-1). Emergency amendments adopted again effective April 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-2). Emergency amendments adopted again effective July 12, 1993 (Supp. 93-3). Amendments permanently adopted with changes effective October 12, 1993 (Supp. 93-4). Amended effective November 6, 1998 (Supp. 98-4).

ARTICLE 3. OPERATION OF NON-ACCREDITED INSTITUTIONS

R4-39-301. Catalog

- **A.** Catalogs shall include the following information:
 - 1. Name and address of the institution and publication date of the catalog.
 - Names and titles of the administrative officials of the institution who are duly authorized to act for it in all matters relating to state approval and licensing.
 - For institutions with full-time students, a calendar for the institution showing vacation periods, holidays, and beginning and ending dates for each semester, quarter, term, or session observed by the institution.
 - 4. Policies and regulations regarding student attendance, including leave, absences, class cuts, make-up work, tardiness, and causes for suspending or expelling a student for these reasons. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for these reasons.
 - 5. Enrollment prerequisites for each course offered.
 - Policies and regulations of the institution regarding credit for previous education, training, work and life experience.

- Amount of tuition, estimated fees, and costs of books, supplies, tools, and instructional aids to be used and purchased by students.
- Policies and regulations regarding refunds of the unused portions of tuition, fees, materials and supplies.
- 9. A topical outline of each program for which approval is requested, indicating a statement of purpose, objectives, subjects, units, skills, and jobs to be learned in the program, and the approximate number of clock, credit or semester hours to be spent by the student in each phase of the program.
- 10. Policies and regulations regarding standards of progress required of the student by the institution. These policies shall define the grading system of the institution, the minimum grade average considered satisfactory for continued enrollment, and causes for suspending or expelling a student for unsatisfactory grades or progress. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory grades or progress.
- 11. Policies and regulations regarding student conduct and causes for suspending or expelling a student for unsatisfactory conduct. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory conduct.
- B. A copy of each new or revised catalog shall be promptly submitted to the Board upon publication.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3).

R4-39-302. Facilities and Equipment

A non-accredited private vocational or degree-granting institution shall ensure:

- The building, classrooms, equipment, furniture, grounds, instructional devices, and other physical facilities of the institution are appropriate to achieve the educational objectives of the institution.
- The physical facility and equipment meet all safety requirements and health standards of the city, county, state, or authority in which the facility is located.
- The physical facility and equipment shall comply with local and state laws for planning, building, zoning, and fire codes.
- Maintain in force all insurance necessary to protect the assets of the institution in the event of damage or a finding of liability.
- The Board is notified of a change of location as specified in R4-39-109.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-303. Control and Personnel

- A. A non-accredited private vocational or degree-granting institution's administrator, director, owner, beneficial owner, and faculty shall be of good moral character and shall obey the statutes and regulations of the Board.
- B. The Board shall not issue a license if an owner, beneficial owner, or other person having direct or indirect control over the program or institution has been convicted of a felony or misdemeanor of any state or federal law relating to education.
- C. The Board shall not issue a license if an owner, beneficial owner, or other person having direct or indirect control over

- the program or instruction has committed any act considered grounds for disciplinary action.
- **D.** The director or manager of the institution shall be responsible for the following:
 - Developing curriculum capable of preparing students for an occupational objective, an academic credential, or a specific entry level job.
 - Selecting faculty competent in the subject matter to be taught and possessing teaching technique necessary to implement the applicable curriculum.
- **E.** Faculty shall meet the following minimum educational and experience requirements:
 - A faculty member of a non-accredited private degreegranting institution shall possess at least the degree awarded to a graduate of the program. The degree must have been awarded by an institution accredited by an accrediting agency recognized by the U.S. Department of Education.
 - 2. A faculty member of a non-accredited private vocational institution shall demonstrate competency through education or experience in the assigned subject area. The faculty member shall submit a resume on a form provided by the Board. The accuracy of information submitted shall be verified by the institution's personnel and the Board.
- **F.** A non-accredited private vocational or degree-granting institution shall ensure the faculty to student ratio is appropriate to meet the educational objective of the program.
- G. A private non-accredited vocational or degree-granting institution shall:
 - Notify the Board in writing of any termination or change of director, manager, or faculty member within 30 days of the last day of employment.
 - 2. Notify the Board in writing of any new director, manager, or faculty member within 30 days of hiring.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-304. Advertising

- A. Advertising shall be truthful and shall not include false or misleading statements about the institution, personnel, the faculty, courses, services, or occupational opportunities for a graduate.
- B. The Board may institute disciplinary proceedings against a non-accredited private vocational or degree-granting institution or an institutional representative for false or misleading advertising.
- C. A non-accredited private vocational or degree-granting institution shall not solicit students in the "help wanted" section of a newspaper, magazine, or other similar publication.
- D. A non-accredited private vocational or degree-granting institution shall not use the words "guarantee" or "free" in solicitations or advertising in any brochure, catalog, bulletin, leaflet, or other publication of the institution, nor in a newspaper, magazine, or any other media.
- **E.** All printed advertising shall include the name, phone number, and address of the institution.
- F. The Board may require a non-accredited private vocational or degree-granting institution to submit all advertising for approval prior to publication.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Former Section R4-39-304 repealed; new Section R4-39-304 renumbered from R4-39-305 and amended by final rule-making at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-305. Recruitment

- **A.** The non-accredited private vocational or degree-granting institution shall recruit in a professional and ethical manner.
- B. The non-accredited private vocational or degree-granting institution shall be responsible for training admissions personnel. A sales agent shall not directly or indirectly act as a guidance counselor, advisor, or as any other position to disguise the sales function of the agent.
- C. The non-accredited private vocational or degree-granting institution shall not use a loan, grant, scholarship, discount, and other such items as an inducement to enroll, which may result in an unfair or unethical trade practice. "Scholarship" as used in this rule means any form of assistance extended to a prospective student which, in effect, amounts to a reduction in tuition. The non-accredited private vocational or degree-granting institution may grant a tuition scholarship if rules about the scholarship are published by the institution and available to all students and prospective students.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section R4-39-305 renumbered to R4-39-304; new Section R4-39-305 renumbered from R4-39-306 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-306. Admission Requirements

- A. The institution shall publish and administer admission requirements.
- **B.** If an entrance exam is required, the non-accredited private vocational or degree-granting institution shall:
 - 1. Set a minimum passing score for admission;
 - Admit only a student who has obtained the minimum passing score on the entrance exam; and
 - Maintain a copy of the completed entrance exam in the student's permanent record.
- C. If an entrance exam is not required, the non-accredited private vocational or degree-granting institution shall admit only a student who demonstrates the ability to satisfactorily complete the prescribed training through:
 - 1. Initial interview;
 - 2. Letter of recommendation;
 - High School Diploma or a General Educational Development test:
 - 4. Official educational transcripts; or
 - 5. Other requirements established by the institution.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Former Section R4-39-306 renumbered to R4-39-305; new Section R4-39-306 renumbered from R4-39-307 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-307. Placement

If the non-accredited private vocational or degree-granting institution offers placement services to a student, the following requirements shall apply:

- 1. The institution shall maintain evidence of a student referral for job placement and shall include the following:
 - a. The name of the student referred.
 - b. The name of the prospective employer.
 - c. Result of referral.
 - d. Final placement or other disposition.
- The non-accredited private vocational or degree-granting institution shall prepare a student for placement by:

- a. Instructing the student in resume preparation and interviewing procedures;
- Instructing the student in the appropriate dress and personal grooming;
- c. Instructing the student in conduct on the job.
- A list of potential employers given to a student or graduate by the institution shall not be considered a referral or offer of placement.
- Each student application shall contain a disclaimer by the institution that job placement is not guaranteed to a graduate or student.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section R4-39-307 renumbered to R4-39-306; new Section R4-39-307 renumbered from R4-39-308 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-308. Pricing and Refund Policy

- A. The non-accredited private vocational or degree-granting institution shall disclose an accurate price of a specific course or program of study in any contract to be signed by a prospective student. Prices for the same course or program of study shall be the same for every student, except for group arrangements or following a published notice of a price change.
- **B.** The non-accredited private vocational or degree-granting institution shall not require a prospective student to make a non-refundable payment until the prospective student has been accepted for enrollment.
- C. The non-accredited private vocational or degree-granting institution shall disclose the refund policy of the institution in any contract signed by a student or prospective student.
- **D.** The institution shall fully disclose all charges and fees to a prospective student or his parent or guardian in writing.
- E. The non-accredited private vocational or degree-granting institution shall disclose all scholarships and fee reductions in writing to a student or prospective student at the time of enrollment.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section R4-39-308 renumbered to R4-39-307; new Section R4-39-308 renumbered from R4-39-309 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-309. Renumbered

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section renumbered to R4-39-308 by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-310. Repealed

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Section repealed by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS

R4-39-401. Student Records

A. An institution shall maintain complete and accurate records for each student currently enrolled, including:

- An enrollment agreement containing, but not limited to the following information:
 - a. Name and address of student;
 - b. Commencement date of program;
 - c. Title of the course or courses within the program;
 - d. Total clock and credit hours of the program;
 - e. Payment schedule and total cost to the student;
 - f. Refund policy of the institution;
 - A statement indicating that the individual signing the agreement has read and understands all aspects of the agreement;
 - The holder in due course rule as defined in A.R.S. § 47-3302:
 - A disclaimer by the institution that "job placement" is not guaranteed to graduates upon completion of this training or upon graduation;
 - j. Student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student; and
 - A cancellation notice in accordance with Federal Trade Commission (FTC) regulations.
 - Signature of the student and an official of the institution;
- 2. Copy of the entrance exam, if applicable;
- 3. A transcript:
- 4. Grades received, where applicable;
- 5. Student attendance information;
- 6. Counseling records;
- Financial aid records for a length of time as required by the U.S. Department of Education; and
- All obligations incurred and all funds paid by the student to the institution.
- B. An institution shall make student records available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board.
- C. An institution that gives credit toward a course based upon prior job experience, training, or life experience shall record that credit in the institution's records relating to the student and in the student's official transcript and list the portion of the course for which the student is given credit. The institution shall attach a copy of the transcript reflecting courses for which the student is given credit for prior job experience, training, or life experience to the institution's official transcript and shall retain the transcript as part of the student's permanent records.
- **D.** In addition to subsections (A), (B), and (C), an institution shall include the following in the record of a student who graduates:
 - 1. Class rank upon graduating, where applicable.
 - 2. Job placement provided, where applicable.
 - 3. Place of employment and beginning salary after graduation, where applicable.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 6 A.A.R. 1129, effective March 7, 2000 (Supp. 00-1).

R4-39-402. Preservation of Records

When an institution or program which is licensed by this Board ceases operation, whether voluntarily or involuntarily, all educational records, or legible true copies of all educational records if originals are unavailable, shall be filed with the Board within 60 days of ceasing educational operations.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1).

R4-39-403. Student Complaint Procedures

- A. If a student has a complaint against a licensed institution or program and exhausts all available grievance procedures established by the institution, the student may file a written complaint with the Board. A complaint must be filed within three years of the student's last date of attendance.
- B. The Board's staff shall investigate the complaint. Upon completion of Board staff's investigation, the complaint shall be referred to the Complaint Committee for a review and recommendation to the Board.
- C. After a review of the student complaint, the Complaint Committee shall:
 - Determine that the student complaint needs further investigation. Based upon the outcome of the investigation, the complaint may be re-heard by the Complaint Committee or referred to the Board;
 - Determine that the student complaint does not demonstrate that a violation of statute or rule occurred and recommend to the Board that the complaint be dismissed; or
 - Determine that the complaint demonstrates that a violation of statute or rule occurred and send a report of its findings and recommendation to the Board.
- D. Upon receipt of the Complaint Committee's findings and recommendation, the Board shall affirm, reverse, adopt, modify, supplement, amend, or reject the report, in whole or in part, and determine there are reasonable grounds that the complaint demonstrates a violation of Board statutes and rules.
- E. If the Board determines there are reasonable grounds to believe that the complaint demonstrates a violation of Board statute or rules, the Board shall set the matter for hearing under A.R.S. § 41-1092 et seq.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 6 A.A.R. 1129, effective March 7, 2000 (Supp. 00-1).

ARTICLE 5. INVESTIGATIONS AND HEARING PROCEDURES

R4-39-501. Investigations

- A. The Board shall investigate any sworn complaint against a person or entity alleging violation of A.R.S. § 32-3001 et seq. or this Chapter. For purposes of this Section, "investigated party" means an entity or person who is the subject of a Board investigation.
- B. Board staff may request production of records or information from an investigated party or complainant, or request an interview with an employee or agent of the investigated party. The investigated party may file written objections with the Board to the Board's request within 15 days of receipt of the request. Unless the investigated party timely files an objection to the Board's request, the investigated party shall not fail to produce documents or information or attempt to make available for an interview an employee or agent of the investigated party. Board staff shall attempt to informally resolve objections to requests for documents, information, or an interview. If no resolution is reached, the matter shall be heard and decided by the Board.
- C. The Board shall not disclose documents and materials relating to an investigated matter except to the investigated party, until the matter is closed, settled by stipulation, or set for hearing under Title 41, Chapter 6, Article 10.
- D. Upon completion of the investigation, the matter shall be referred to the Board's Complaint Committee for consideration.
- **E.** After consideration of the matter investigated, the Complaint Committee may take the following actions:

- Instruct Board staff to conduct further investigation. After further investigation, the matter may be re-heard by the Complaint Committee or referred to the Board;
- Determine that the investigation does not demonstrate a violation of A.R.S. § 32-3001 et seq. or this Chapter and recommend to the Board that the investigation be closed; or
- Determine that the investigation demonstrates there are reasonable grounds to indicate a violation of A.R.S. § 32-3001 et seq. or this Chapter and send a report of its findings and recommendation to the Board.
- F. If the Board determines that the investigation demonstrates that there are reasonable grounds to indicate a violation of A.R.S. § 32-3001 et seq. or this Chapter, the Board shall serve notice of the Board's determination and set the matter for hearing.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

R4-39-502. Hearings

- A. All hearings shall be conducted before the Board or an administrative law judge under A.R.S. Title 41, Chapter 6, Article 10.
 - Parties may stipulate to any facts that are not in dispute.
 A stipulation may be made in writing or orally by reading the stipulation into the record of the hearing. A stipulation is binding upon the parties unless the Board grants a party permission to withdraw from the stipulation. The Board may, on its own motion, set aside a stipulation and proceed to ascertain the facts.
 - The Board may, on its own motion or at the request of a party, call a conference of the parties at the opening of a hearing or at any subsequent time to clarify the procedures for the hearing or the legal or factual issues involved.
 - By order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing of any or all of the matters at issue.
- **B.** If, after proper notice, a licensee fails to appear at any proceeding before the Board, the Board may render a decision based upon the evidence and information available to the Board.
- C. The decision of the Board is a final administrative decision under A.R.S. § 41-1092.08(F).

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

R4-39-503. Rehearing or Review of Board's Decision

- A. Any party aggrieved by a final administrative decision of the Board may file with the Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds as provided in subsection (C). A rehearing shall be conducted before the Board or the administrative law judge under A.R.S. § 41-1092.09.
- B. A motion for rehearing or review may be amended at any time before it is ruled on by the Board. A response may be filed by any other party within 15 days after filing of a motion or amended motion. The Board may require the filing of written briefs on the issues raised in the motion and may provide for oral argument.

- C. The Board shall grant a rehearing or review of a decision for any of the following reasons that materially affect the moving party's rights:
 - Irregularity in the administrative proceedings of the Board or the administrative law judge or any order or abuse of discretion that deprives the moving party of a fair hearing;
 - Misconduct of the Board, the administrative law judge, or the prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. An excessive or insufficient penalty;
 - Error in the admission or rejection of evidence or other error of law occurring at the administrative hearing; or
 - The decision is not justified by the evidence or is contrary to law.
- D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. A rehearing or review shall cover only those matters specified in the Board's order.
- E. No later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason listed in subsection (C). An order granting such a rehearing or review shall specify the grounds on which it is granted.
- When a motion for rehearing or review is based upon affidavits, the affidavits shall be filed and served with the motion. An opposing party may, within 15 days after service, file and serve opposing affidavits. The Board may extend the period for serving opposing affidavits for not more than 20 days for good cause shown or by written stipulation of the parties.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

ARTICLE 6. STUDENT TUITION RECOVERY FUND

R4-39-601. Submission of Assessments

- A. Before July 30 of each year, the Board shall notify in writing an institution specified in A.R.S. § 32-3072(B) if an assessment as defined in A.R.S. § 32-3071(1) is due. The notice shall be sent by certified mail and shall contain the amount of the assessment, the date the payment of the assessment is due, and the penalty for failure to pay the assessment. As authorized by A.R.S. § 32-3072(B), the Board shall determine assessed fees as follows:
 - The assessment for an institution licensed under A.R.S.
 Title 32, Chapter 30 seeking renewal of a regular or provisional license shall be based on the number of newly enrolled students for the 12-month period identified on the license renewal application required under R4-39-108 or R4-39-107(D).
 - 2. The assessment for a new institution licensed under A.R.S. Title 32, Chapter 30 shall be based on the number of newly enrolled students during the fiscal year ending June 30.
 - 3. The assessment for a cosmetology school as defined in A.R.S. § 32-3071(3) or a professional driver training school as defined in A.R.S. § 32-3071(10) shall be based on the number of newly enrolled students during the fiscal year ending June 30.
- **B.** On June 30 of each year, the Board shall determine the amount of funds in the Student Tuition Recovery Fund ("Fund"). If the

- Fund balance exceeds \$500,000, only a new institution that is licensed or an institution that is provisionally licensed during the fiscal year that ended on June 30 shall be assessed a fee for that fiscal year.
- C. If an institution disputes the amount of the assessment for an institution, the Board shall place the matter on the agenda for a public meeting. The Board may require that the institution whose assessment is disputed:
 - Submit additional information or documents to clarify incomplete or ambiguous information or documents; and
 - Have a representative present to address the Board at the public meeting.

Historical Note

Adopted effective August 14, 1990 (Supp. 90-3). Amended by final rulemaking at 7 A.A.R. 4256, effective September 12, 2001 (Supp. 01-3).

R4-39-602. Claims

- **A.** The Board shall investigate a claim against the Fund and find:
 - 1. The claim is valid if:
 - Student educational records confirm that the claim is filed by a person injured as defined in A.R.S. § 32-3071(7); and
 - The claim is filed within one year after the closed institution ceases operation;
 - 2. The claim is invalid:
 - a. As specified in A.R.S. § 32-3075(B);
 - b. Because a student participates in a "teach-out." As used in this subsection, "teach-out" means a student from a closed institution voluntarily transfers to another institution where the student receives all the instruction for which the student originally paid, but did not receive from the closed institution; or
 - c. Because a student from a closed institution voluntarily transfers to another institution and receives different training for an additional cost from what the student paid at the closed institution.
- **B.** If the Board finds a claim to be valid, the Board shall determine the amount and the party to be paid as follows:

- The claim payment shall include only the actual amount of tuition and fees paid in cash or with a student loan. The Board shall not make a claim payment for a grant, scholarship, or debt owed to another state, local, or federal governmental agency.
- A claim payment shall be made first to the student loan holder for the amount owed on the loan, and then to the student or the parent for the amount already paid on the loan or cash payments.
- **C.** The Board shall pay a valid claim within 120 days of the date of the public meeting at which the claim is considered.
- D. A claimant who is not satisfied with the Board's decision on a claim may file a motion for hearing as allowed under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective August 14, 1990 (Supp. 90-3). Amended by final rulemaking at 7 A.A.R. 4256, effective September 12, 2001 (Supp. 01-3).

R4-39-603. Student Record Requests

- **A.** The Board shall maintain the student records of a closed institution licensed under A.R.S. Title 32, Chapter 30 for a period of 25 years. For purposes of this Section, student records has the same meaning as in R4-39-401.
- **B.** The Board shall provide student records of a student who attended a closed institution licensed under A.R.S. Title 32, Chapter 30, if the following are submitted:
 - Name and social security number of the student;
 - 2. Name of the closed institution;
 - 3. Student name used while attending the closed institution;
 - 4. Identification of the student record requested;
 - Name and address of the party to whom the student record is to be mailed;
 - Student signature or copy of a signed student record release form authorizing a third party to obtain the student record, if applicable; and
 - 7. \$10 processing fee and 25 cents per page copying charge.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 4256, effective September 12, 2001 (Supp. 01-3).